

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Rel. No. 57839 / May 20, 2008

Admin. Proc. File No. 3-12874

In the Matter of the Application of

ROBERT M. RYERSON
c/o Saul Roffe, Esq.
Stark & Stark, P.C.
993 Lenox Drive
Lawrenceville, NJ 08648

For Review of Action Taken by
NASD

ORDER GRANTING
MOTION TO DISMISS
PETITION FOR REVIEW

Robert M. Ryerson, a former associated person of an NASD member firm, has applied for review of disciplinary action taken against him by NASD. ^{1/} NASD has moved to dismiss Ryerson's petition for review. For the reasons discussed below, we grant NASD's motion.

I.

On April 22, 2004, NASD filed a complaint against Ryerson alleging that he engaged in private securities transactions in violation of NASD Rules 3040 and 2110, improperly paid commissions to a non-NASD member in violation of NASD Rule 2110, and failed to provide timely on-the-record testimony to NASD staff in violation of NASD Rules 8210 and 2110. Ryerson answered the complaint, generally denied the allegations of misconduct, and requested a hearing. An NASD Hearing Panel conducted a two-day hearing in October 2004 at which

^{1/} On July 26, 2007, the Commission approved a proposed rule change filed by NASD to amend NASD's Certificate of Incorporation to reflect its name change to Financial Industry Regulatory Authority, Inc., or FINRA, in connection with the consolidation of the member firm regulatory functions of NASD and NYSE Regulation, Inc. See Securities Exchange Act Rel. No. 56146 (July 26, 2007), 91 SEC Docket 517. Because the disciplinary action here was taken before that date, we will use the designation NASD when applicable.

Ryerson confronted and cross-examined adverse witnesses and presented his own case and witnesses.

On January 24, 2005, the Hearing Panel issued its decision in which it found that Ryerson had committed the violations alleged. The Hearing Panel imposed (1) a two-year suspension in all capacities, a \$230,000 fine, and an order that Ryerson requalify in all capacities for his improper private securities transactions and (2) a fifteen business-day suspension and a \$5,000 fine for his improper payment of commissions to a non-NASD member. ^{2/} The Hearing Panel also ordered that Ryerson pay costs. The Hearing Panel decision ordered that “Respondent’s fines and costs shall become due and payable upon his re-entry into the securities industry.”

Ryerson filed a timely appeal of the Hearing Panel decision with the National Adjudicatory Council (“NAC”). The NAC issued its decision on August 3, 2006. The NAC decision generally affirmed the Hearing Panel’s findings of violations, sanctions, and imposition of costs. ^{3/} Unlike the Hearing Panel decision, the NAC decision did not condition Ryerson’s payment of monetary sanctions on his re-entry into the securities industry. Instead, the NAC opinion stated that, pursuant to NASD Procedural Rule 8320, “the registration of any person associated with a member who fails to pay any fine, costs, or other monetary sanction, after seven days’ notice in writing, will summarily be revoked for non-payment.”

The August 3, 2006 cover letter transmitting the NAC decision to Ryerson stated, among other things, that Ryerson had thirty days from receipt of the NAC decision to file any application for review with the Commission. The cover letter further stated that the “NAC’s orders in the enclosed decision to pay fines and costs will be stayed pending appeal. If you do not appeal the NAC’s decision to the SEC, you may pay these amounts after the 30-day period for appeal to the SEC has passed.”

Ryerson did not seek Commission review of the NASD action within thirty days of receiving the decision. He also did not pay NASD the fines and costs ordered in the NAC decision after expiration of the appeal period. NASD sent Ryerson a letter dated November 13, 2006 seeking payment of fines and costs totaling \$239,178.26. Ryerson’s counsel sent NASD a letter dated November 27, 2006 stating that the NAC decision “did not amend” the part of the Hearing Panel decision that conditioned Ryerson’s payment of monetary sanctions upon

^{2/} The Hearing Panel also imposed a one-year suspension and a \$10,000 fine for Ryerson’s failure to provide timely on-the-record testimony. The National Adjudicatory Council set this sanction aside.

^{3/} See supra note 2.

